

AMENDED IN SENATE SEPTEMBER 4, 1997

AMENDED IN SENATE JUNE 23, 1997

AMENDED IN SENATE JUNE 16, 1997

AMENDED IN ASSEMBLY APRIL 15, 1997

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL

No. 807

Introduced by Assembly Member Scott

February 26, 1997

An act to amend Sections 264.2 and 679.04 of the Penal Code, relating to crimes, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 807, as amended, Scott. Sexual assault: victim's support.

(1) Existing law requires a law enforcement officer, or his or her agency, to immediately notify the local rape victim counseling center whenever a victim of an alleged violation of specified sex offenses is transported to a hospital for examination, and the victim approves of that notification.

This bill instead would require the law enforcement officer, or his or her agency, to immediately notify the local rape victim counseling center whenever a victim of an alleged violation of specified sex offenses is transported to a hospital for any medical evidentiary or physical examination. The bill would also provide that the victim shall have the right to have

a sexual assault victim counselor and at least one other support person of the victim's choosing present at any medical evidentiary or physical examination, and that notice of this right shall be provided orally or in writing to the victim by the attending medical provider prior to the commencement of any initial medical evidentiary or physical examination arising out of a sexual assault.

(2) Existing law provides that a victim of sexual assault or spousal rape has the right to have a sexual assault victim counselor and at least one additional support person chosen by the victim present at any evidentiary, medical, or physical examination or interview by law enforcement authorities or defense attorneys.

This bill would revise the above provision to provide that the victim has a right to have victim advocates present at any interview by law enforcement authorities, district attorneys, or defense attorneys. *However, this bill would specify that an initial investigation by law enforcement at the crime scene to determine whether a crime has been committed and the identity of the suspects shall not constitute a law enforcement interview.* The bill would also provide that prior to the commencement of any initial law enforcement interview or district attorney contact, the victim shall be notified orally or in writing by the attending law enforcement authority or district attorney that the victim has the right to have victim advocates, as well as a support person of the victim's choosing, present at the interview or contact. *This bill would further provide that this notification requirement shall also apply to investigators and agents employed or retained by law enforcement or the district attorney.* By imposing increased duties on local criminal justice systems that are equivalent to those imposed by the establishment of a new crime, this bill would impose a state-mandated local program.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.



(4) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 264.2 of the Penal Code is
2 amended to read:

3 264.2. (a) Whenever there is an alleged violation of
4 Section 261, 261.5, 262, 286, 288a, or 289, the law
5 enforcement officer assigned to the case shall
6 immediately provide the victim of the crime with the
7 “Victims of Domestic Violence” card, as specified in
8 paragraph (5) of subdivision (i) of Section 13701 of the
9 Penal Code.

10 (b) (1) The law enforcement officer, or his or her
11 agency, shall immediately notify the local rape victim
12 counseling center whenever a victim of an alleged
13 violation of Section 261, 261.5, 262, 286, 288a, or 289 is
14 transported to a hospital for any medical evidentiary or
15 physical examination. The victim shall have the right to
16 have a sexual assault victim counselor, as defined in
17 Section 1035.2 of the Evidence Code, and at least one
18 other support person of the victim’s choosing present at
19 any medical evidentiary or physical examination.

20 (2) Prior to the commencement of any initial medical
21 evidentiary or physical examination arising out of a sexual
22 assault, a victim shall be notified orally or in writing by the
23 attending medical provider that the victim has the right
24 to have present a sexual assault victim counselor and at
25 least one other support person of the victim’s choosing.

26 (3) The hospital may verify with the law enforcement
27 officer, or his or her agency, whether the local rape victim
28 counseling center has been notified, upon the approval of
29 the victim.

30 SEC. 2. Section 679.04 of the Penal Code is amended
31 to read:

32 679.04. (a) A victim of sexual assault, as defined in
33 subdivisions (a) and (b) of Section 11165.1, or spousal

1 rape has the right to have victim advocates and at least
2 one other support person of the victim's choosing present
3 at any interview by law enforcement authorities, district
4 attorneys, or defense attorneys. As used in this section,
5 "victim advocate" means a sexual assault victim
6 counselor, as defined in Section 1035.2 of the Evidence
7 Code, or a victim advocate working in a center
8 established under Article 2 (commencing with Section
9 13835) of Chapter 4 of Title 6 of Part 4.

10 (b) Prior to the commencement of any initial law
11 enforcement interview or *district* attorney contact
12 pertaining to any ~~civil or~~ criminal action arising out of a
13 sexual assault, a victim of sexual assault or spousal rape
14 shall be notified orally or in writing by the attending law
15 enforcement authority or district attorney that the victim
16 has the right to have victim advocates, as well as a support
17 person of the victim's choosing, present at the interview
18 or contact. *This subdivision applies to investigators and*
19 *agents employed or retained by law enforcement or the*
20 *district attorney.*

21 (c) *An initial investigation by law enforcement at the*
22 *crime scene to determine whether a crime has been*
23 *committed and the identity of the suspects shall not*
24 *constitute a law enforcement interview for purposes of*
25 *this section.*

26 SEC. 3. No reimbursement is required by this act
27 pursuant to Section 6 of Article XIII B of the California
28 Constitution because the only costs that may be incurred
29 by a local agency or school district will be incurred
30 because this act creates a new crime or infraction,
31 eliminates a crime or infraction, or changes the penalty
32 for a crime or infraction, within the meaning of Section
33 17556 of the Government Code, or changes the definition
34 of a crime within the meaning of Section 6 of Article
35 XIII B of the California Constitution.

36 Notwithstanding Section 17580 of the Government
37 Code, unless otherwise specified, the provisions of this act
38 shall become operative on the same date that the act
39 takes effect pursuant to the California Constitution.

1 SEC. 4. This act is an urgency statute necessary for the
2 immediate preservation of the public peace, health, or
3 safety within the meaning of Article IV of the
4 Constitution and shall go into immediate effect. The facts
5 constituting the necessity are:

6 The failure to provide notice to a victim of sexual assault
7 that he or she has a right to have a certified sexual assault
8 advocate as well as a support person of the victim's
9 choosing present at specified examinations, interviews, or
10 attorney contacts relating to the sexual assault has led to
11 many unfortunate situations. In order to remedy this
12 situation as soon as possible, it is necessary that this act go
13 into immediate effect.

